

REMARKS/ARGUMENTS

This Application has been carefully reviewed in light of the Office Action dated January 15, 2004. Claims 4, 8, 12-16, and 18 have been canceled. Claims 1-3, 5, 7, 17, 19 and 20 have been amended. Claims 1-3, 5-7, 9-11, 17, 19 and 20 are pending. Several typographical errors in the Specification have been corrected. No additional filing fee is required. Reconsideration and favorable action are respectfully requested.

Claim 19 has been amended to be independent and include all the limitations of the base and intervening claims. In addition, amendments to avoid the Section 112, second paragraph, rejections have been made. Claim 19, which was indicated as being allowable if amended as herein, now appears to be in condition for allowance, which is respectfully requested.

Claim 20 has been amended to correct the informalities noted in the Office Action.

Claim 20 was rejected under Section 112, second paragraph, for including a reference to "a reel body interior surface." This rejection is respectfully traversed. The interior surface of the reel body 22 is described in paragraph 0018, second sentence, and is denoted as element 84 in Figure 6. The feature involving reel body interior surface 84 is that the grooves 80, 82 are cut into that surface 84 to permit passage of the wires 58, 60. This feature is also illustrated in Figure 6. In conventional fishing rods, there is normally no space between the exterior of the rod body and the interior of the reel body, but the provision of the grooves in that surface permits routing of the wires as described in the application. The confusion may have been caused by the original reference to two elements 84, which has been corrected in this amendment by relabeling element 84 in a replacement Figure 3 as element 85.

Claim 20, which was indicated as being allowable subject to the corrections made herein

and the Section 112 rejection, now appears to be in condition for allowance, which is respectfully requested.

The remaining Claims 1-3, 5-7, 9-11, and 17 were rejected as being anticipated by, or obvious in view of, the prior art including the cited reference Smith. These rejections are respectfully traversed in light of the amendments made herein.

Specifically, Claim 1 now makes clear that the vibratory module is vibratory coupled to only the handle cavity, such that vibrations are only indirectly applied to a lure on the end of a line connected to the rod, with no direct connection of the vibratory module to the line. This feature distinguishes the invention of amended Claim 1 from Smith and all other references. Smith, for example, couples the line directly to the vibratory apparatus which includes shaft 26 and rocker arm 25. Other direct connections are disclosed in the prior art, such as the swing arm 28 of Phillip ('978).

Thus, the Applicant's module of Claim 1 imparts vibrations only to the interior surface of the rod handle, which then indirectly transmits the vibrations through the existing handle structure, reel, guides and line to the lure. There is no direct connection of the vibrating means to the line, which permits normal casting by the fisherman, and then vibrations may be selectively applied when desired. When vibration is not desired, the fishing rod functions as just a normal fishing rod. The only outward sign of possible vibration function is the micro-pushbutton switch. This allows one to go through all the normal fishing functions, such as casting and retrieving, then selectively and momentarily vibrating the lure at just the right time when it is presented to the fish. The vibrating fishing rods of the cited references are all special-purpose fishing contraptions, and not feasible for adaptation into traditional casting and spinning

fishing tackle. This is a particular advantage of Applicant's invention.

Current Federal Circuit case law requires rigorous application of the requirement for a showing of the teaching or motivation to modify prior art references. See, e.g., *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (examiner can satisfy burden of obviousness in light of modification "only by showing some objective teaching [leading to the modification]"); *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) (evidence of teaching or suggestion "essential" to avoid hindsight). Modifying prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight. See, e.g., *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985) ("The invention must be viewed not with the blueprint drawn by the inventor, but in the state of the art that existed at the time.").

Moreover, Applicant has submitted herewith the Rule 132 Declaration of Bruce H. Muller to provide evidence of the long felt need for the invention, as well as the skepticism of an expert in the field. The Declaration amply proves that the Applicant's invention obtained unexpected results. The evidence and conclusions of the Rule 132 Declaration should remove any doubt, applying the law of Secondary Considerations, as to the nonobviousness of the claimed subject matter. A proper showing of unexpected results will rebut a *prima facie* case of obviousness. *In re Fenn*, 639 F.2d 762, 208 USPQ 470 (CCPA 1981); *In re Murch*, 464 F.2d 1051, 175 USPQ 89 (CCPA 1972).

There being no suggestion in the prior art of a vibratory module coupled only to the interior cavity of a fishing rod handle, Claim 1 as presently submitted should be allowed.

Claim 2 adds the feature that the vibratory module is frictionally engaged with the handle cavity. This feature enables the ready removal of the module for servicing, efficiently couples the module to the handle cavity, and reduces noise. Frictional engagement of the module is nowhere disclosed in or suggested by the prior art.

Claim 3 claims the handle cavity being tapered from the large end forwardly, to become smaller in a direction away from the large end. This feature is especially useful in enabling the frictional vibratory engagement of the module and handle cavity. A tapered cavity, becoming smaller in the direction from the large end, in combination with a frictionally-engaged vibratory module, is not suggested in the references. The Section 112, second paragraph, rejection has also been avoided by the amendment.

Claim 5 adds the removable cap, and the vibratory module being elongate and removable for servicing through the end of the handle. As such, the module is self-contained, with all components mounted on a single body, and elongate and removable for servicing through the end of the handle. Many of the references show the batteries mounted in the nature of a flashlight, removable from the end. The vibratory solenoids and the like are fixed within the handle. Claim 5 has the entire vibratory module being elongate and removable for servicing, a feature nowhere suggested in the art.

Claims 6 and 7 add a switch mounted in the fore grip (Claim 6) adjacent an inner end of the reel holder (Claim 7). This location is by definition away from the end of the handle. None of the references discloses this particularly advantageous configuration. The Smith reference, for example, does not have a reel at all. The Philip ('978) reference shows the switch 40 on the handle, a particularly awkward location.

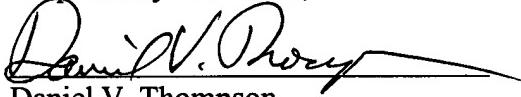
Claims 9-11 and 17 add, to different base and intervening claims, the features of the vibratory module including an elongate circuit board, battery fingers extending from the board, and an electric motor/eccentric mounted to the board. The examiner took the position that these features were obvious substitutions for the fixed-mounted buzzers, motors and solenoids of the prior art, however, Applicant challenges this position and requests a showing suggesting making a fishing rod vibratory module in this manner. In any event, these Claims 9-11 and 17 are at minimum allowable for the reasons set forth above with respect to the claims they depend from.

Claims 1-3, 5-7, 9-11, 17, 19 and 20 appear to now be in condition for full allowance, which action is respectfully requested.

Applicant has now made an earnest attempt to place this case in condition for full allowance, which action is respectfully requested. Should the Examiner determine that an interview with the attorney in charge of this case would be helpful in resolving any remaining issues of patentability, he is respectfully requested to telephone the undersigned.

Dated: 3/11/2004

Respectfully submitted,


Daniel V. Thompson
Registration 29,706
Attorney for Applicant

Thompson & Gustavson, LLP
9330 LBJ Freeway, Suite 1185
Dallas, Texas 75243
(972) 479-0900

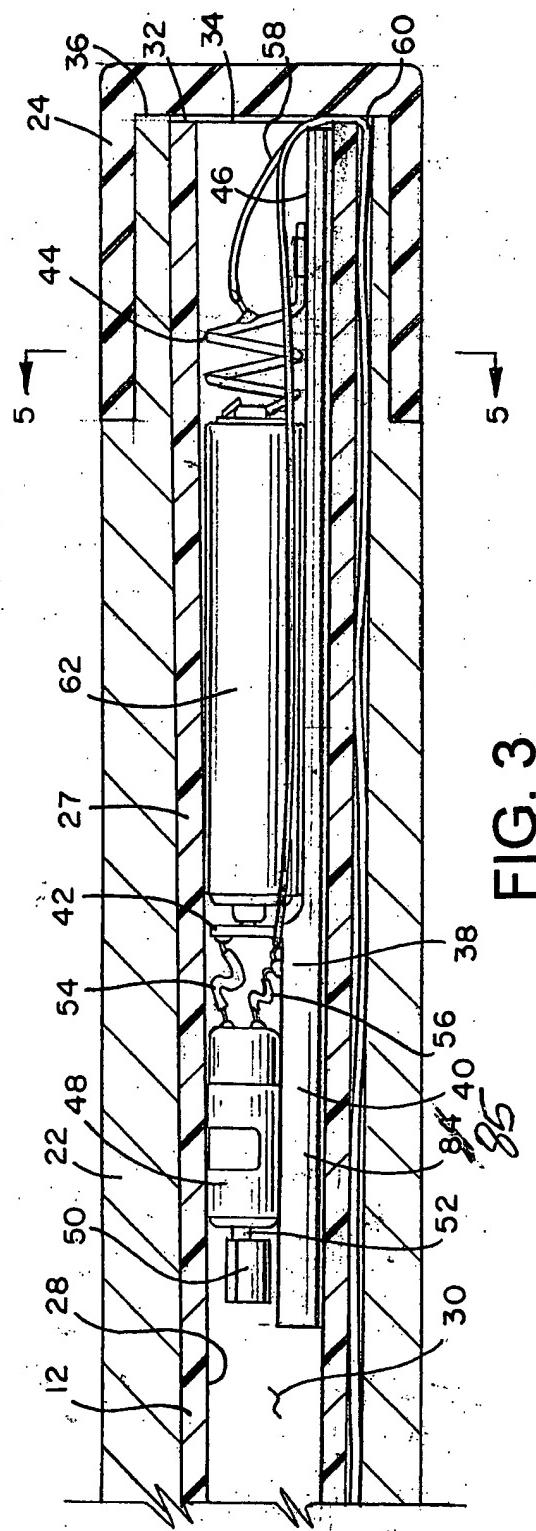


FIG. 3

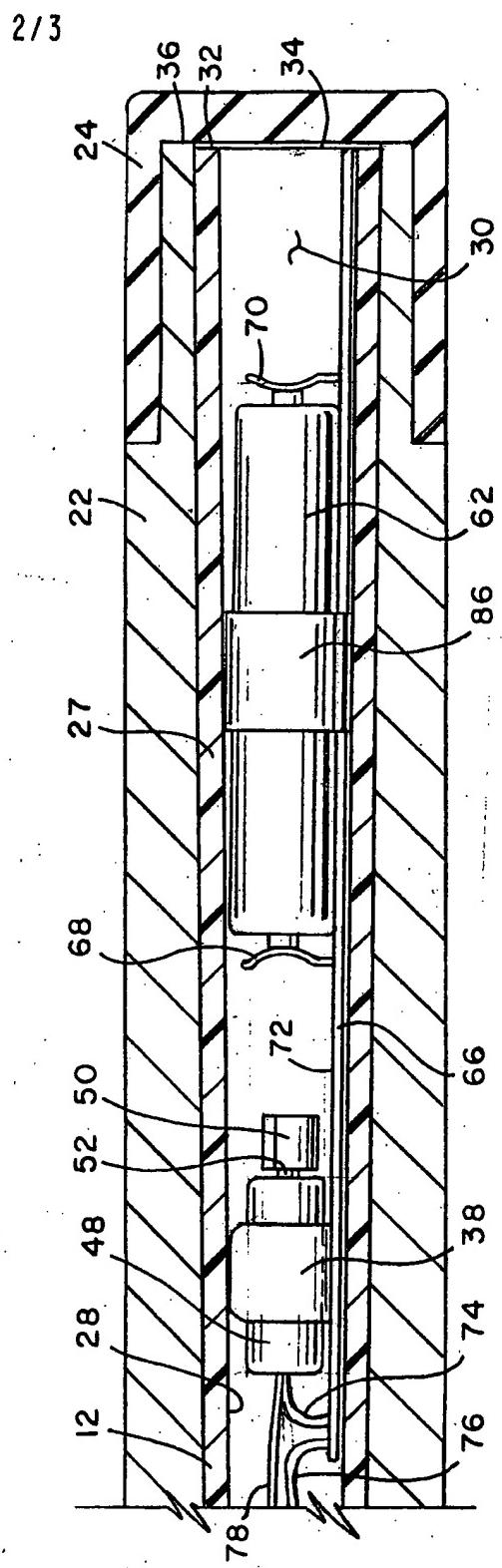


FIG. 4